

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK**

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**ORETHA BEH, RUBY CASON, BRIANA
KINCANNON and KIMBERLY BALKUM,
individually and on behalf of all persons
similarly situated,**

Plaintiffs,

-versus-

No. 19-cv-1417-LJV

**COMMUNITY CARE COMPANIONS INC.,
ALEXANDER J. CARO, MARK GATIEN,
INTERIM HEALTHCARE OF ROCHESTER,
INC., and JAMES WATSON,**

**DECLARATION OF
IAN HAYES**

Defendants,

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IAN HAYES, ESQ., under penalty of perjury, declares that the following statements are true and correct:

1. I am a member in good standing of the bar of the State of New York and of the bar of this Court. For approximately six years, I have been an Associate in the firm of Creighton, Johnsen & Giroux.

2. For many months, I have attended meetings of home care workers in the Buffalo, NY and Rochester, NY areas. These meetings have been attended by both Home Health Aides ("HHA") and Personal Care Assistants ("PCA") (collectively, "home care workers") employed by a variety of home care agencies. Home care workers employed by Interim Healthcare of Rochester, Inc. ("Interim") attended these meetings until November 2017, when Community Care Companions, Inc. ("CCC") bought Interim and hired Interim's home care workers. From November 2017 to present, home care workers employed by CCC have been among the home care workers who have attended these meetings.

3. At these meetings, home care workers speak about their experiences with their respective employers, including speaking about problems with being paid properly and not being compensated for all the time they work. I have also had many one-on-one conversations with CCC home care workers at these meetings about their terms and conditions of employment. In addition, other CCC home care workers have contacted me directly outside of meetings because of my presence at the meetings and acquaintance with home care workers I have met at them. As a conservative estimate, I have spoken in detail with at least thirty-five (35) CCC home care workers about the terms of conditions of their work at CCC. These conversations have given me the information on CCC policies that I describe in this declaration.

4. CCC regularly communicates with home care workers using the workers' cell phones, through both phone calls and text messages.

5. CCC home care workers regularly work in the respective residences of CCC's clients by themselves.

6. CCC home care workers perform home care duties at the respective residences of CCC clients within the geographic area of Buffalo, NY and its surrounding areas, and the geographic area of Rochester, NY and its surrounding areas.

7. Many CCC home care workers are assigned to care for more than one client in a workday and thus are required by CCC to travel between the respective residences of clients during the workday. Many CCC workers are required to engage in such travel on several days within a single workweek. In some cases, CCC home care workers are assigned to three clients in a workday and therefore must also travel from the residence of a second client to the residence of a third client in such workdays. Workers often rely on public transportation (bus) to travel from one client's residence to the next, usually entailing transferring from one bus to another. In some cases,

either because of the unavailability of public transportation or because of its slowness, CCC home care workers take taxicabs or other for-hire vehicles to travel from one client's residence to the next. Most trips between clients' residences take between thirty minutes and two hours and, in some cases, even longer.

8. CCC does not compensate its home care workers for the time they spend traveling between clients' residences or for the out-of-pocket expenses they incur in such traveling.

9. CCC home care workers are required to wear scrubs to perform their work. CCC requires them to purchase such scrubs but does not reimburse them for the cost thereof. CCC also requires its home care workers to keep their scrubs clean. Virtually all workers clean the scrubs separately from their personal clothes because of the bodily fluids that often get on the scrubs as a result of their home care duties. Most workers have to go to a laundromat to clean and dry the scrubs, and most do so at least weekly. It costs workers between \$5 and \$15 to use a washer and dryer, plus the cost of laundry soap and bleach. It takes most workers between 3 and 4 hours to travel to a laundromat, wash and dry the clothes, and then travel home, depending on the availability of washers and dryers at a laundromat.

10. CCC does not compensate its home care workers for the time they expend on washing/drying their scrubs nor does it compensate its workers for out-of-pocket expenses they incur in the course of performing such task.

11. Until 2019, CCC required its home care workers to participate in training sessions from home, on their own time, on several occasions per year. Workers were given written materials that they were required to read and were also required to answer written questions. They were then required to mail their answers back to the CCC office or bring them to the CCC office in person. On average, it took workers approximately two hours or more on each occasion to

complete the reading and question portions of each training. CCC did not compensate its home care workers for the time they expended on these mandatory training sessions.

12. Most CCC home care workers are scheduled to work between 30 and 40 hours most workweeks. This does not include time they spend traveling between clients' residences, cleaning and drying their uniforms or attending the mandatory training sessions described above. When these activities *are* counted in determining the number of hours worked per week, that number is usually more than forty (40) hours per week. However, because CCC has not and does not compensate its home care workers for the time they expend on these tasks, CCC does not compensate them at one and one-half times their regular rates of pay for hours worked each week above forty (40) hours.

I declare under penalty of perjury that the foregoing is true and correct.

Executed

12/20/19

A handwritten signature in black ink, appearing to read "Ian Hayes", is written over a horizontal line.

Ian Hayes, Esq.